

 <p>MaineCare Services An Office of the Department of Health and Human Services</p> <p>John E. Baldacci, Governor Brenda M. Harvey, Commissioner</p>	<p>Department of Health and Human Services MaineCare Services 442 Civic Center Drive # 11 State House Station Augusta, Maine 04333-0011 Tel: (207) 287-2674 Fax: (207) 287-2675; TTY: 1-800-423-4331</p>
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June 25, 2008

TO: Interested Parties

FROM: Anthony Marple, Director, MaineCare Services

SUBJECT: Emergency Rule: MaineCare Benefits Manual, Chapter II, Section 97, Private Non-Medical Institutions

This letter gives notice of emergency rulemaking: MaineCare Benefits Manual, Chapter II, Section 97, Private Non-Medical Institutions.

The Department has determined that the immediate adoption of these rules is necessary to comply with legislative requirements and federal Medicaid rules. In this rulemaking, the Department is eliminating language about bedhold days. The Department will permanently adopt these changes in a proposed rulemaking, and a public hearing will be held as part of that separate rulemaking.

A separate rulemaking will be done for Chapter III of these rules, as Chapter III is deemed major substantive rulemaking.

Rules and related rulemaking documents may be reviewed at and printed from the Office of MaineCare Services website at, http://www.maine.gov/dhhs/bms/rules/provider_rules_policies.htm or for a fee, interested parties may request a paper copy of rules by calling 207-287-9368. For those who are deaf or hard of hearing and have a TTY machine, the TTY number is 1-800-423-4331.

A concise summary of the proposed rule is provided in the Notice of Agency Rule-making Proposal. This notice also provides information regarding the rule-making process. Please address all comments to the agency contact person identified in the Notice of Agency Rule-making Proposal.

Our vision is Maine people living safe, healthy and productive lives.

Phone: (207) 287-9368

Fax: (207) 287-9369

TTY: (800) 423-4331

Notice of Agency Rule-making Adoption

AGENCY: Department of Health and Human Services, MaineCare Services

CHAPTER NUMBER AND TITLE: MaineCare Benefits Manual, Chapter II, Section 97, Private Non-Medical Institutions

ADOPTED RULE NUMBER:

CONCISE SUMMARY: The Department has determined that the immediate adoption of these rules is necessary to comply with legislative requirements and federal Medicaid rules.

In this rulemaking, the Department is eliminating language about bedhold days. The Department will permanently adopt these changes in a proposed rulemaking, and a public hearing will be held as part of that separate rulemaking.

These rules are deemed emergency given the budget short falls and are intended to achieve a savings of \$2,000,000.00 in the general fund for SFY 08-09. These emergency rules will remain in effect for ninety (90) days while the Department proposes rules in a separate rulemaking to permanently adopt these emergency rules.

See http://www.maine.gov/bms/rules/provider_rules_policies.htm for rules and related rulemaking documents.

EFFECTIVE DATE: August 1, 2008 – October 29, 2008

AGENCY CONTACT PERSON:	Patricia Dushuttle
AGENCY NAME:	Division of Policy and Performance
ADDRESS:	442 Civic Center Drive 11 State House Station Augusta, Maine 04333-0011
TELEPHONE:	(207)-287-9362 FAX: (207) 287-9369 TTY: 1-800-423-4331 or 207-287-1828 (Deaf/Hard of Hearing)

10-144 Chapter 101
Department of Health and Human Services
MAINECARE BENEFITS MANUAL
Chapter II

Section 97	PRIVATE NON-MEDICAL INSTITUTION SERVICES	ESTABLISHED 1/1/85 LAST UPDATED: 8/1/08
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TABLE OF CONTENTS

	PAGE
97.01 DEFINITIONS	1
97.01-1 Family	1
97.01-2 Individual Service Plan	1
97.01-3 Interim Per Diem.....	1
97.01-4 Medical Supplies and Durable Medical Equipment.....	1
97.01-5 Private Non-Medical Institution.....	1
97.01-6 Private Non-Medical Institution Services	4
97.01-7 Program Allowance	4
97.01-8 Provider Agreement	5
97.01-9 Rate Letter.....	5
97.02 ELIGIBILITY FOR CARE	5
97.03 DURATION OF CARE	6
97.04 COVERED SERVICES	6
97.05 LIMITATIONS	7
97.05-1 Collateral Contacts.....	7
97.05-2 Non-Duplication of Services.....	7
97.05-3 Out-of-State Placement.....	8
97.05-4 Bed Hold Days	8
97.06 NON-COVERED SERVICES	9
97.06-1 Private room.....	9
97.06-2 Personal Care Services Provided by a Family Member.....	9
97.07 POLICIES AND PROCEDURES	10
97.07-1 Setting	10
97.07-2 Qualified Staff.....	10
97.07-3 Assessment and Individual Service Plan	13
97.07-4 Member's Record.....	14
97.07-5 Program Integrity	14
97.07-6 Review of the Individual Service Plan.....	14
97.07-7 Discharge Summary	15
97.07-8 Time Studies	15

10-144 Chapter 101
Department of Health and Human Services
MAINECARE BENEFITS MANUAL
Chapter II

Section 97	PRIVATE NON-MEDICAL INSTITUTION SERVICES	ESTABLISHED 1/1/85 LAST UPDATED 8/1/08
------------	--	---

TABLE OF CONTENTS (cont.)

	PAGE
97.08 GENERAL DESCRIPTION OF THE FACILITY'S CLINICAL SERVICES	16
97.08-1 Substance Abuse Treatment Facilities	16
97.08-2 Child Care Facilities	24
97.08-3 Community Residences for Persons with Mental Illness.....	26
97.08-4 Medical and Remedial Facilities.....	29
97.08-5 Intensive Temporary Out-of-Home Treatment Services.....	29
97.09 REIMBURSEMENT	31
97.10 BILLING INFORMATION	32

10-144 Chapter 101
Department of Health and Human Services
MAINECARE BENEFITS MANUAL
Chapter II

Section 97	PRIVATE NON-MEDICAL INSTITUTION SERVICES	ESTABLISHED: 1/1/85 LAST UPDATED: 8/1/08
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97.05 **LIMITATIONS** (cont.)

Services that are part of the PNMI rate may not be billed to MaineCare separately by other providers. For example, if the PNMI provides personal care services, and a member receives Home and Community-Based Waiver Services, the personal care services shall be delivered by the PNMI provider and not by a certified nursing assistant (CNA), home health aide (HHA), or personal care assistant (PCA), as otherwise allowed.

In order to avoid duplication of services, staff providing case management services as part of PNMI treatment shall coordinate their services with case managers providing services outside the residential setting, in accordance with the provisions of Chapter II, Section 13, of the MaineCare Benefits Manual, Targeted Case Management Services.

97.05-3 Out-of-State Placement

Reimbursement shall not be made for Private Non-Medical Institution services provided out of state unless the services are medically necessary, and are not available within the State and prior authorization (as described in Chapter I, of the MaineCare Benefits Manual) has been granted.

EMG EFF. 8/1/08 – 10/29/08

97.05-4 Bed-Hold Days

Bed-hold days are not reimbursable.

~~Bed hold days are days a member is absent from a PNMI for which the PNMI provider may bill the MaineCare program to hold the member's bed. The Department recognizes that some bed hold days serve the best interest of the member. Providers may only use bed hold days when there is a reasonable expectation that the member will return to the facility. Bed hold days may only be reimbursed for members who have already been admitted to a specific PNMI. The absence must be in the best interest of the member.~~

~~If the Department determines that the facility was paid for bed hold days after it was determined that a member would not return to the facility, any of these excess days will not be covered days.~~

~~1.——Bed hold Limits~~

~~Bed hold days are covered days for billing purposes when documented as part of an approved service plan. These days may include absences for personal reasons such as therapeutic visits to family or friends or medically necessary stays in another setting, such as cases where the Department will be billed by two separate providers for PNMI services for the same dates of service, or when the member is receiving medical care at a hospital, nursing facility, or higher level of care.~~

~~2.——Billing for Bed Hold Days~~

10-144 Chapter 101
Department of Health and Human Services
MAINECARE BENEFITS MANUAL
Chapter II

Section 97	PRIVATE NON-MEDICAL INSTITUTION SERVICES	ESTABLISHED: 1/1/85 LAST UPDATED: 8/1/08
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97.05 **LIMITATIONS** (cont.)

EMG EFF 8/1/08 – 10/29/08

~~Providers must bill using appropriate bed-hold day billing codes for any days the member is not in the facility. Bed-hold day codes for each type of PNMI are listed in the table at the end of Chapter III, Section 97. Providers must keep documentation of members' days out of the facility in the member record, including the reason the member was absent.~~

- 3- For members receiving State S.S.I. and cost-reimbursement benefits, in order for benefits to continue for a member who is temporarily admitted to a State institution, a hospital, or a nursing facility when the residential care facility provider has agreed to hold the bed, the provider must do the following: a) Notify the Social Security Administration that the member has been admitted to an institution, and b) Notify the Social Security Administration that the bed is being held for the resident.

97.06 **NON-COVERED SERVICES**

Please refer to Chapter I of the MaineCare Benefits Manual for additional non-covered services, including services that are for vocational, academic, socialization or recreational purposes.

97.06-1 Private Room and Other Non-Covered Services

The PNMI may permit payment by a relative of an additional amount to enable a member to obtain non-covered services such as a private room, telephone, television, or other non-covered services. However, the additional charge for non-covered services shall not exceed the charge to private pay residents. The supplement for a private room shall be no more than the difference between the private pay rate for a semi-private room and a private room rate. There shall be a signed statement by the member and/or relative making the additional payment that he/she was notified and agreed to the payment for non-covered services before those services were provided. This provision shall not apply where the standard of care in the PNMI is for a private room.

Private rooms, as are all PNMI room and board costs, are non-covered services under MaineCare, but if there is a medical necessity for a private room, the PNMI must make one available.

96.06-2 Personal Care Services Provided by a Family Member

Personal care services provided by a family member are not a covered service, and may not be billed by the family or by any other provider.